AF 3625

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Appln. of: SERA

Serial No.: 09/855,149

Filed: May 14, 2001

For: Network Commerce System, Orderer Terminal Using the Same...

Group: 3625

Examiner: FADOK, MARK A. DOCKET: NEC 142135

MAIL STOP APPEAL BRIEF -- PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL LETTER

Dear Sir:

In response to the Notice of Defective Appeal Brief, enclosed please find three copies of Appellant's Substitute Brief on Appeal and Appendix A.

Appellant notes there are no fees in connection with the subject filing, however, in the event there are any fee deficiencies or additional fees are payable, please charge them (or credit any overpayment) to our Deposit Account No. 08-1391.

Respectfully submitted,

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CERTIFICATE OF MAILING

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By _____

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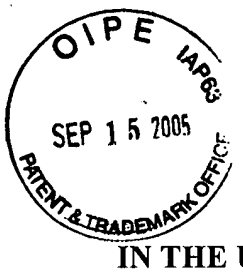

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Serial No.:	09/855,149
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APPELLANT'S SUBSTITUTE BRIEF ON APPEAL

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TABLE OF CONTENTS

Page

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TABLE OF CASES

Page

TABLE OF AUTHORITIES

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APPELLANT'S SUBSTITUTE BRIEF ON APPEAL

This Substitute Brief is being filed in support of Appellant's Appeal from the Final Rejection by the Examiner, to the Board of Appeals and Interferences, the Notice of which was filed along with a one month extension of time on February 18, 2005.

REAL PARTY IN INTEREST

The Real Party in Interest for this Application is NEC Infrontia Corporation, having its principal place of business at 2-6-1 Kitamikata Takatsu-Ku, Kawasaki, 213-8511, JAPAN. NEC Infrontia Corporation received an Assignment of all right, title and interest in the Application through an Assignment from the original assignee NEC Corporation, recorded on Reel 012905/0639 on May 16, 2002. The original assignee NEC Corporation, received an Assignment of all right, title and interest in the Application through an Assignment executed by the Inventor Yoshinobu Sera on May 11, 2001 and by virtue of his employment by NEC

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Corporation. The Assignment to NEC Corporation was recorded in the U.S. Patent and Trademark Office on May 14, 2001 at Reel 011816/0673.

RELATED APPEALS AND INTERFERENCES

To the best of the knowledge and the belief of the undersigned attorney and Appellant, there are no other appeals or interferences that would directly affect, or be directly affected by, or have bearing on, the Board's decision in the present Appeal.

STATUS OF THE CLAIMS

Claims 1-18 stand finally rejected and are on Appeal. The claims on Appeal are set forth in **Appendix A** attached hereto.

STATUS OF AMENDMENTS

Appellant's Amendment B Under Rule 116 was entered by the Examiner in an Advisory Action mailed January 6, 2005.

SUMMARY OF CLAIMED SUBJECT MATTER

Information processing units e.g., personal computers, and communication lines e.g., the Internet, have become widespread, and information processing units are often used to order and purchase items or services using the aforementioned networks. A networked system can allow a user to order and purchase items through a catalog. And, some network systems allow a user to purchase items via one click operation, i.e., a system where a buyer registers and saves their name, address, and telephone number through a home page and then the buyer can purchase items without having to re-enter this information. (Specification, page 1, line 11 -- page 2, line 6).

In these types of prior art systems, because a variety of items or services handled through the network, a buyer has to consume time to determine which sellers on the network

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handle their desired items and then which seller the buyer would like to use. Also, since the buyer may be different from the recipient of an item, and/or the location of the buyer may be different from that of the recipient, current systems are unable to efficiently connect sellers within a close proximity to a recipient. Moreover, prior art systems cannot selectively determine sellers capable of accepting the requirements of a buyer, e.g., the quick delivery of items or producing and processing items for low cost. (Specification, page 2, lines 7-22).

An electronic commerce system according to the present invention includes a plurality of orderer terminals 10, member's shop terminals 30 that are producing/processing terminals, a service headquarters terminal 20 that is a headquarters apparatus, a payment terminal 40, and a network 100 i.e., the internet, interconnecting these elements. (Specification, page 9, lines 7-13; FIG. 1).

A personal computer or workstation server is used for the orderer terminals 10 and the member's shop terminals 30. A workstation server is used for the server headquarters terminal 20. Each member's terminal 30 is handled at a member's shop, for example, a photo developer, in accordance with the order of the orderer terminal 10. Each member's terminal has the photo finishing service function and can print the photograph. (Specification, page 9, lines 14-21; page 13, lines 6-16; FIGs. 1 and 3).

As for the internal configuration of an orderer terminal, the orderer terminal 10 includes a transmitter 11 and a receiver 12. The transmitter transmits orders for image data and acoustic data in the form of digital data, and requests for editing digital data, development of a photograph, etc., to the service headquarters terminal 20 via the network 100. The receiver 12 receives services, i.e., a finished photo, returned from the service headquarters terminal 20. (Page 9, line 22--page 10, line 8; FIG. 2).

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The service headquarters terminal 20 includes an image data transmitter 21, a receiver 22, an order transmitter 23, a notice receiver 24, and a notifier 25. The image data transmitter 21 transmits image data for inputting orders for the content of edited digital data, processing content, etc., to the orderer terminal 10 via the network 100. The receiver 22 receives digital data and orders transmitted from the orderer terminal 10. The order transmitter 23 transmits the digital data and orders to the member's shop terminal 30 selectively determined in accordance with the content of a received order. The notice receiver 24 receives a notification regarding the fact that an item edited in accordance with an order from the member's shop terminal 30 has been completely delivered and regarding the delivery expenses. The notifier 25 notifies the payment terminal 40 of a payment request notice to demand a payment of the editing charge and the delivery charge, based on the received notice. (Specification, page 10, line 9--page 11, line 1; FIG. 2).

The member's shop terminal 30 includes a receiver 31, an editor 32, and a responder 33. The receiver 31 receives digital data and an order of the orderer terminal 10 transmitted via the service headquarters terminal. The editor edits 32 and processes the digital data in accordance with the received order. The responder 33 returns the fact that an edited item has been delivered, to the orderer terminal 10 and to the service headquarters terminal 20. The payment terminal 40, which is an information processing unit installed in, for example, a financial institution, includes a receiver 41 and a payment unit 42. The receiver 41 receives a notice transmitted from the service headquarters terminal 20. The payment unit 42 pays an amount of money corresponding to a received notice. (Specification, page 11, lines 2-16; FIG. 2).

Each of the orderer terminal 10, the member's shop terminal 30, the service headquarters terminal 20, and the payment terminal 40 has a modem that transmits and receives

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digital data via the network 100. A URL (Uniform Resource Locator) having a specific ID and a domain name is added to a home page opened by the service headquarters terminal 20. An orderer specifies the URL using the orderer terminal 10 to access the home page opened by the service headquarters terminal 20. Thus, the orderer can receive services from the member's shop terminal. (Specification, page 11, line 17--page 12, line 2; FIG. 2).

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The issue presented on Appeal is:

(1) Whether claims 1-18 are unpatentable under 35 USC § 102(e) as anticipated by Garfinkle et al. (US 6,512,570).

ARGUMENT ON APPEAL

THE REJECTION OF CLAIMS 1-18 UNDER 35 U.S.C. § 102(e) AS ANTICIPATED BY GARFINKLE ET AL. IS IMPROPER BECAUSE GARFINKLE DOES NOT TEACH ALL OF THE FEATURES OF APPELLANT'S CLAIMS

The rejection of claims 1-18 under 35 USC §102 as anticipated by Garfinkle et al. (U.S. Patent No. 6,512,570), is in error. As this Board is well aware, anticipation under 35 USC § 102 requires that a single reference teach every element of the claim MPEP 2131. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference". *Verdegaal Bros. v. Umon Oil Co. of California*, 814F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir 1987). As will be seen below, Garfinkle et al. fails to meet this test.

Independent claim 1 requires a headquarters terminal that includes "a receiver for receiving an image data order from said orderer terminal transmitted via said network and a transmitter for transmitting the order received by said receiver to a producing/processing terminal via said network." In other words, the headquarters terminal is the center of the

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system, storing images and providing the interface between customers, sellers, and payment centers. This type of structure is illustrated by FIG. 2 of the instant application, which is reproduced below for the convenience of the Board as follows:

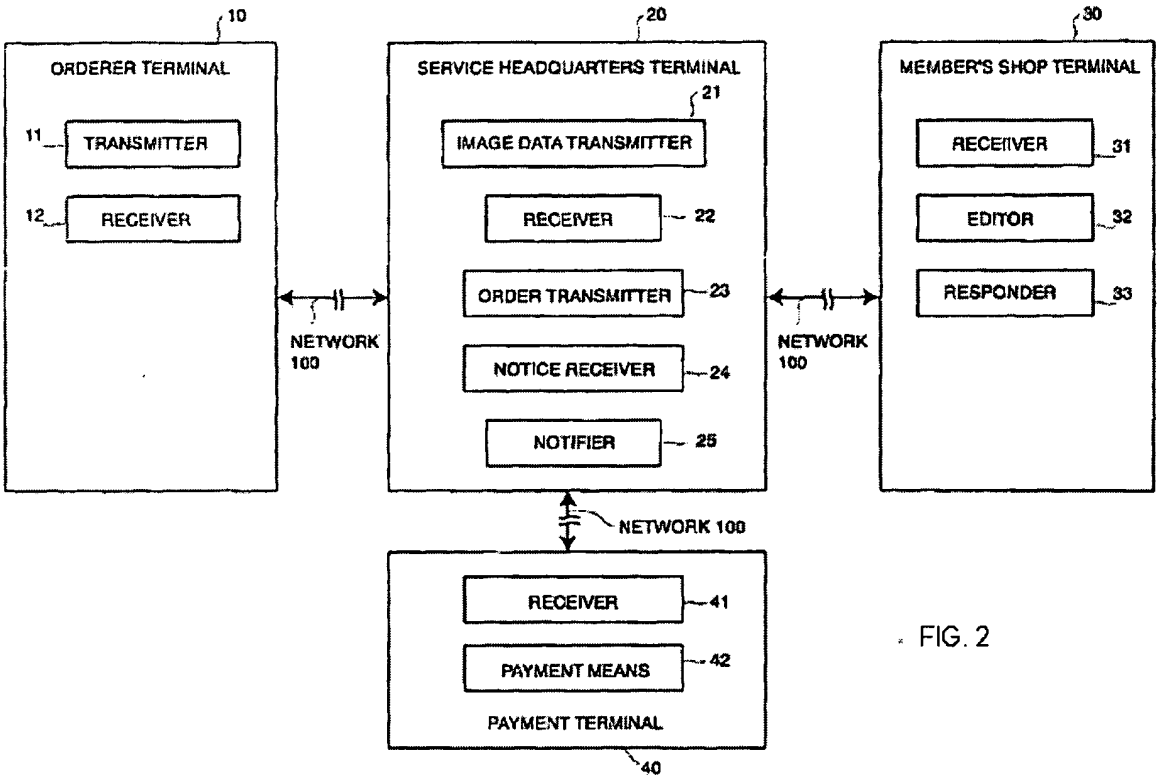

FIG. 2

Garfinkle et al. does not teach this structure! Garfinkle et al. teaches images that are uploaded to an image server via an upload interface A, viewed by a developing center, user or vendor using a separate interface B, and are managed by an administrative interface C. See Garfinkle et al. FIG. 1, which is reproduced below for the convenience of the Board:

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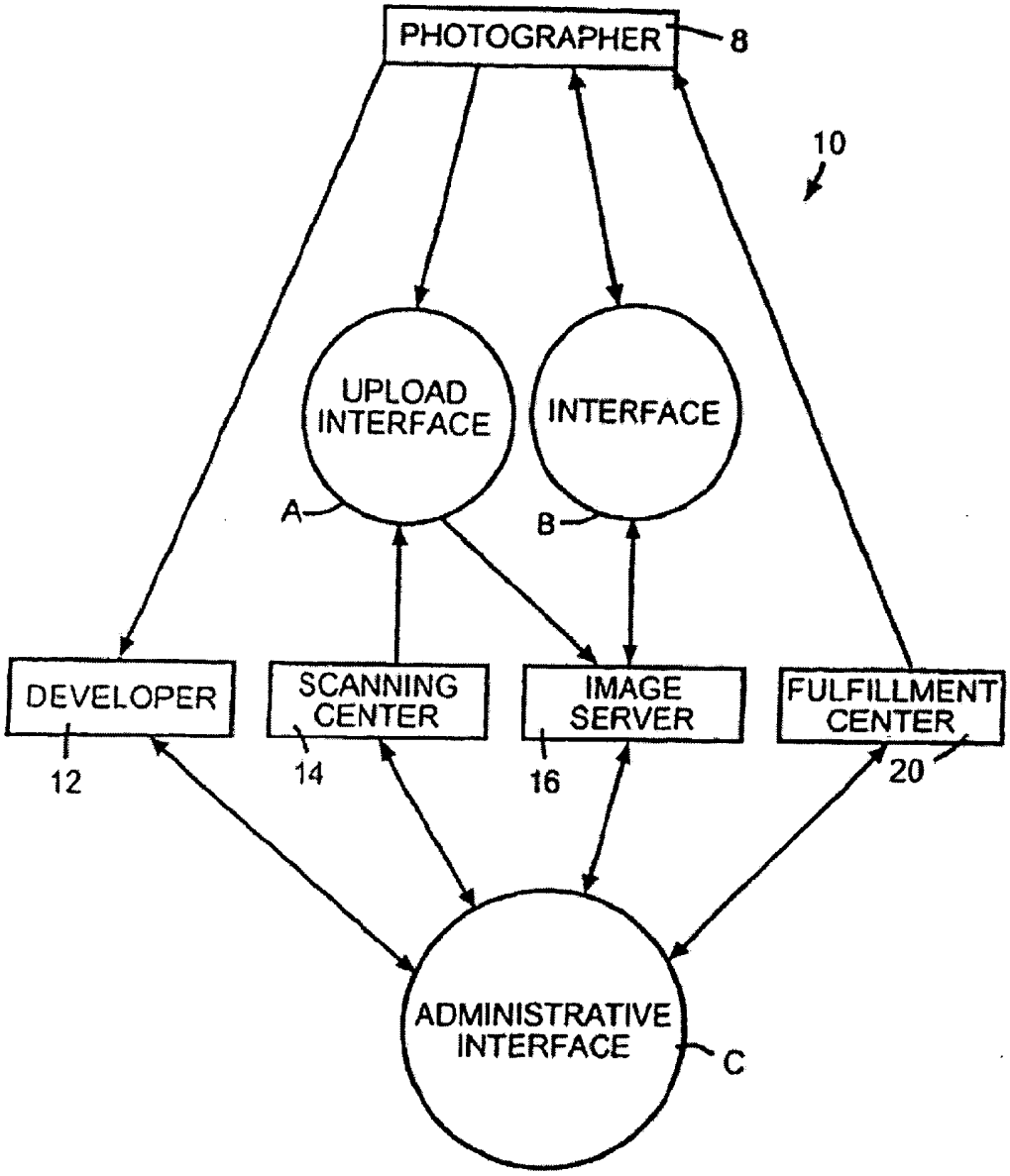

The Examiner contends the separate Interfaces A, B and C of Garfinkle et al. are equivalent to the headquarter terminal of claim 1. This is not so. According to Garfinkle et al., Interfaces A, B and C access a database to manage the image server 16 (Column 7, lines 6-65). Nowhere does Garfinkle et al. describe that these interfaces are integrated together in the same subsystem as required by claim 1. In fact, Garfinkle et al. clearly intends for Interfaces A, B and C to be completely separate "functional blocks", and provides separate flow charts for each

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of these interfaces (see FIGs. 4; 5; 7). For example, Garfinkle et al. describes Interface A, i.e., the upload interface, in a flow chart that includes a block that accesses a separate image server and the photographer's computer terminal or scanning center. These features are highlighted by blocks 3a and 3f in FIG. 3 of Garfinkle et al. which is reproduced below for the convenience of the Board:

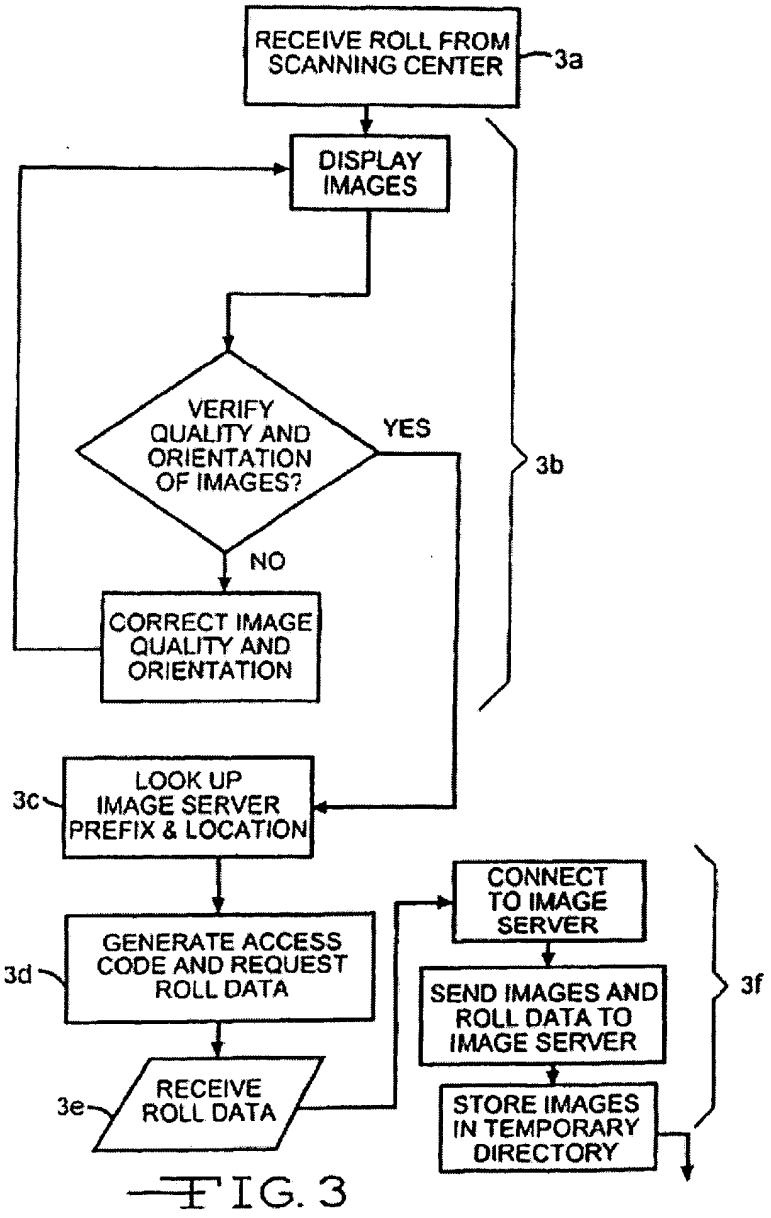

FIG. 3

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Interface B interacts with the image server and photographer for viewing only, but does not interact with the fulfillment center, developer, or scanning center, or Interfaces A and C as highlighted below in Garfinkle et al.'s FIG. 8 which is produced below for the convenience of the Board:

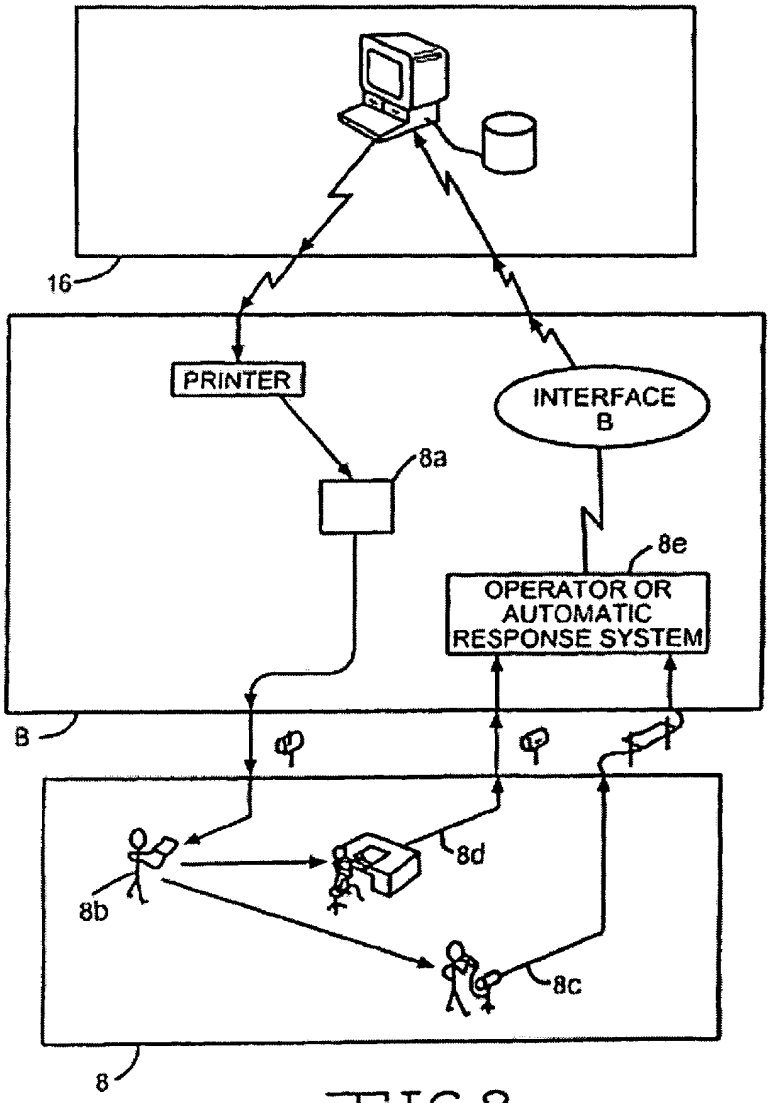

FIG.8

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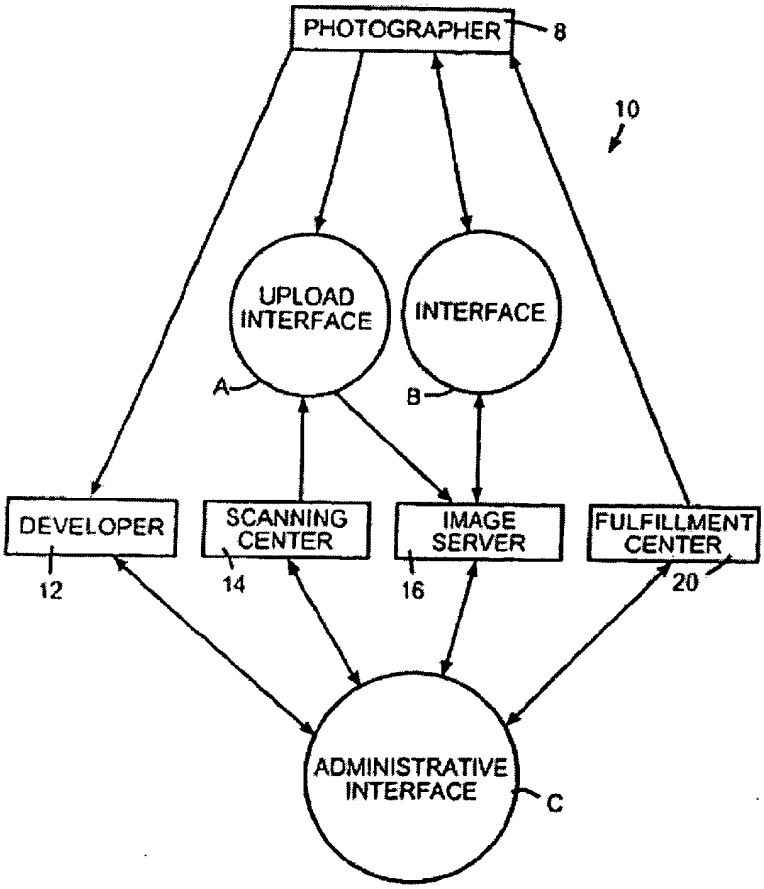
Interface C interacts with the image server, fulfillment center, developer and scanning center only, not Interfaces A and B or the photographer as is highlighted in FIG. 1 of Garfinkle et al., which again is reproduced below for the convenience of the Board:



Nowhere does Garfinkle et al. teach a single subsystem, i.e., the headquarters terminal as required by claim 1, that has a receiver for receiving orders and image data from an orderer terminal and a transmitter for transmitting the order to the producing/processing terminal, thereby managing image data. Thus, Garfinkle et al. cannot anticipate independent claim 1, or dependent claims 2-14 which depend directly or indirectly thereon. Independent claims 15-18 contain similar claim language and are similarly allowable over the art.

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CONCLUSION

In view of the foregoing, it is respectfully requested that the rejection of the subject application be reversed in all respects.

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CERTIFICATE OF MAILING

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APPENDIX A

Serial No. 09/855,149
Docket No. NEC 142135

CLAIMS ON APPEAL
filed with
APPELLANT'S SUBSTITUTE BRIEF

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APPENDIX A

CLAIMS ON APPEAL:

Claim 1: A network commerce system comprising:

an orderer terminal for interaction with an orderer ordering an item or service;

a plurality of producing/processing terminals each for interaction with a producer/processor, said producer/processor producing and processing said item or providing a produced and processed item, in accordance with an order from said orderer terminal;

wherein said orderer terminal and said producing/processing terminal are interconnected via said network; and

a headquarters terminal including a receiver for receiving an image data order from said orderer terminal transmitted via said network and a transmitter for transmitting the order received by said receiver to a producing/processing terminal via said network;

said headquarters terminal selectively determining said producing/processing terminal in accordance with a received order and then making the selected producing/processing terminal produce and process said item or provide a produced and processed item.

Claim 2: The network commerce system defined in Claim 1, wherein said item or service is an item edited with digital data or editing of said digital data; and wherein said orderer terminal transmits said digital data together with said order; and wherein each of said producing/processing terminals receives said order and said digital data transmitted via said network and via said headquarters terminal and then edits said digital data in accordance with the content of said order.

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Claim 3: The network commerce system defined in Claim 2, wherein said digital data comprises image data or acoustic data.

Claim 4: The network commerce system defined in Claim 2, further comprising a payment terminal connected to said network, for paying a purchase charge of said item sold or said service provided, via said orderer terminal.

Claim 5: The network commerce system defined in Claim 2, wherein said item or said service is delivered or supplied to a destination other than said orderer.

Claim 6: The network commerce system defined in Claim 3, further comprising a payment terminal connected to said network, for paying a purchase charge of said item sold or said service provided, via said orderer terminal.

Claim 7: The network commerce system defined in Claim 3, wherein said item or said service is delivered or supplied to a destination other than said orderer.

Claim 8: The network commerce system defined in Claim 2, wherein said digital data comprises image data or acoustic data.

Claim 9: The network commerce system defined in Claim 8, further comprising a payment terminal connected to said network, for paying a purchase charge of said item sold or said service provided, via said orderer terminal.

Claim 10: The network commerce system defined in Claim 9, wherein said item or said service is delivered or supplied to a destination other than said orderer.

Claim 11: The network commerce system defined in Claim 1, further comprising a payment terminal connected to said network, for paying a purchase charge of said item sold or said service provided, via said orderer terminal.

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Claim 12: The network commerce system defined in Claim 11, wherein said item or said service is delivered or supplied to a destination other than said orderer.

Claim 13: The network commerce system defined in Claim 1, wherein said item or said service is delivered or supplied to a destination other than said orderer.

Claim 14: A headquarters terminal comprising:

orderer terminals each for interaction with an orderer ordering an item or service;

a plurality of producing/processing terminals each for interaction with a producer/processor which produces and processes said item or supplies a produced/processed item, in accordance with an order from each of said orderer terminals; and

a headquarters terminal including:

a receiver for receiving an order transmitted in image data form from said orderer terminal via said network;

a transmitter for transmitting an item received by said receiving means to a producing/receiving terminal via said network; and

a determinator for selectively determining said producing/processing terminal in accordance with a received order and then making said producing/processing terminal produce and process said item or making said selected producing/processing terminal supply said produced/processed item;

wherein a network commerce is performed between said orderer terminal and said producing/processing terminal connected via a network.

Claim 15: A producing/processing terminal comprising:

orderer terminals each for interaction with an orderer ordering an item or service;

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a plurality of producing/processing terminals each for interaction with a producer/processor which produces and processes said item or supplies a produced/processed item, in accordance with an order from each of said orderer terminals; and

a headquarters terminal including:

a receiver for receiving an order transmitted in image data form from an orderer terminal via said network;

a transmitter for transmitting an order received by said receiver to a producing/processing terminal via said network; and

a determinator for selectively determining said producing/processing terminal in accordance with a received order and then making said producing/processing terminal produce and process said item or supply said produced/processed item;

wherein a network commerce is performed between said orderer terminal and said producing/processing terminal connected via a network.

Claim 16: An orderer terminal used in a network commerce system, said network commerce system comprising:

orderer terminals each for interaction with an orderer ordering an item or service;

a plurality of producing/processing terminals each for interaction with a producer/processor which produces and processes said item or supplies a produced/processed item, in accordance with an order from each of said orderer terminals; and

a headquarters terminal including:

a receiver for receiving an order transmitted in image data form from an orderer terminal via said network;

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a transmitter for transmitting an item received by said receiver to a producing/receiving terminal via said network; and

a determinator for selectively determining said producing/processing terminal in accordance with a received order and then making said selected producing/processing terminal produce and process said item or supply said produced/processed item;

wherein a network commerce is performed between a producing/processing terminal and said headquarters terminal connected via a network.

Claim 17: A payment terminal used in a network commerce system, said network commerce system comprising:

orderer terminals each for interacting with an orderer ordering an item or service;

a plurality of producing/processing terminals each for interacting with a producer/processor which produces and processes said item or supplies a produced/processed item, in accordance with an order from each of said orderer terminals; and

a headquarters terminal including:

a receiver for receiving an order transmitted in image data form from said orderer terminal via said network;

a transmitter for transmitting an item received by said receiver to a producing/receiving terminal via said network;

a determinator for selectively determining said producing/processing terminal in accordance with a received order and then making said selected producing/processing terminal produce and process said item or supply said produced/processed item; and

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a payment terminal for paying a purchase charge of said item or service sold or supplied via said orderer terminal;

wherein a network commerce is performed between said orderer terminal and said producing/processing terminal and said headquarters terminal, interconnected via a network.

Claim 18: A network commerce method, wherein an orderer terminal orders an item or service via a network and a producing/processing terminal sells said item or provides said service, in accordance with said order, the method comprising the steps of:

receiving said order transmitted in image data form from said orderer terminal via said network, using a headquarters terminal;

selectively determining a producing/processing terminal for said item in accordance with the content of said received order, using said headquarters terminal;

transmitting said order to said selected producing/processing terminal via said network;

making said selected producing/processing terminal produce and process said item or supply said produced/processed item; and

paying, when said order is received or after said produced/processed item is supplied, a purchase charge of said item or service via said orderer terminal.

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